

S.M.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,078	11/26/2001	William Brown	P 282437 ABA-300/13004-4-	2807
	7590 05/18/2004		EXAMINER BORIN, MICHAEL L	
Fitch, Even, Tabin & Flannery 1801 K Street, N.W. Suite 401L Washington, DC 20006-1201			ART UNIT PAPER NUMBER 1631	

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1631

DETAILED ACTION

Status of Claims

Response filed 03/09/2004 is acknowledged.

Claims 1-29,51,54 are pending. Claims reading on the elected species, compound H-Tyr-D-Arg-D-Phe-Phe-NH₂, are 1-15,17-29, 51,54. Claims 16, 52,53 are withdrawn from consideration as drawn to non-elected species (it seems that applicant considers these claims as canceled).

Priority

Examiner maintains that priority of this application goes back to the immediate parent, 09/159518, with the priority date of 09/24/1998. Applicant is not granted with priority date of previous application 09/718585 as there are no common applicants in the instant and referenced applications, and no applicant was deleted in the course of prosecution of application 09/718585.

Applicant refers to the Example in MPEP 201.03. However, unlike the situation described in the Example, no applicant was deleted in the course of prosecution of application 09/718585. Consequently, as there are no common applicants in the instant and referenced application, applicant is not granted priority date of previous application 09/718585.

Art Unit: 1631

Further, applicant submits that Dr. Wang, the sole inventor of 09/718585, has signed the declaration of the parent application 09/159518. Examiner agrees, and notes that the priority of this parent application was granted as explained in the previous Office action.

Claim Rejections - 35 USC § 102.

The rejections of record over Wang et al, and Saenger et al are maintained. The rejections are maintained because priority of 09/159518 remained denied for the reasons set forth above.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date

Art Unit: 1631

of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Borin whose telephone number is (571) 272-0713. Dr. Borin can normally be reached between the hours of 8:30 A.M. to 5:00 P.M. EST Monday to Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Michael Woodward, can be reached on (571) 272-0722.

Any inquiry of a general nature or relating the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-0549.

May 12, 2004

MICHAEL BORIN, PH.D
PRIMARY EXAMINER

mlb

